

EXHIBIT A

✓ 13 CH 705
12/22/10

Randolph G. Bachrach (#012621)
7303 W. Boston Street
Chandler, Arizona 85226
Tel: (480) 753-4474
Attorney for Plaintiff

For Clerk's Use Only

Superior Court of the State of Arizona
COUNTY OF MARICOPA

CV 2010-031047

CANDACE S. WALTERS,

Case No.:

Plaintiff,

SUMMONS

Vs.

If you would like legal advice from a lawyer,
contact the Lawyer Referral Service at
602-257-4434

ODYSSEY HEATHCARE MANAGEMENT
LONG-TERM DISABILITY PLAN; ODYSSEY
HEATHCARE MANAGEMENT LONG-TERM
DISABILITY PLAN ADMINISTRATOR,

or
www.lawyerfinders.org

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Maricopa County Bar Association

Defendants.

**WARNING: This is an official document from the court that affects your rights. Read this carefully.
If you do not understand it, contact a lawyer for help.**

**FROM THE STATE OF ARIZONA TO: ODYSSEY HEATHCARE MANAGEMENT LONG-TERM
DISABILITY PLAN ADMINISTRATOR**

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".
2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send, the "Answer" or "Response" to the Office of the Clerk of the Superior Court, 201 West Jefferson Street, Phoenix, Arizona 85003-2205 or the Office of the Clerk of the Superior Court, 18380 North 40th Street, Phoenix, Arizona 85032 OR Office of the Clerk of Superior Court, 222 East Javelina Drive, Mesa, Arizona 85210-6201 or Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374. Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.
3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.

SUM

Case No. : _____

4. You can get a copy of the court papers filed in this case from the Petitioner at the address at the top of this paper, or from the Clerk of the Superior Court's Customer Service Center at 601 West Jackson, Phoenix, Arizona 85003 or at 222 East Javelina Drive, Mesa, Arizona 85210.
5. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least five (5) days before your scheduled court date.

SIGNED AND SEALED this date

COPY

MICHAEL K. JEANES, CLERK OF COURT

By _____
Deputy Clerk

DEC 17 2010



MICHAEL K. JEANES, CLERK
W. POWLEY
DEPUTY CLERK

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COPY

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Attorneys for Plaintiff

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DEC 17 2010



MICHAEL K. JENSEN, CLERK
W. POWLEY
DEPUTY CLERK

Superior Court of the State of Arizona
FOR THE COUNTY OF MARICOPA

CANDACE S. WALTERS,
Plaintiff,

vs.

ODYSSEY HEALTHCARE
MANAGEMENT LONG-TERM
DISABILITY PLAN; ODYSSEY
HEALTHCARE MANAGEMENT LONG-
TERM DISABILITY PLAN
ADMINISTRATOR,

Defendants.

No.: CV 2010-031047

COMPLAINT
(Unclassified Civil Case: ERISA)

1 Plaintiff, Candace S. Walters, as to all relevant times, alleges as follows:

2 1. Plaintiff is a resident of the State of Arizona, Maricopa County.

3 2. This action arises under the Employee Retirement Income Security Act
4 [ERISA] of 1974, 29 U.S.C. §§ 1001 et seq.

5 3. This Court has jurisdiction over this action pursuant to 29 U.S.C. § 1132(e)(1).

6 4. Defendants, Odyssey Healthcare Management Long-term Disability Plan and
7 Odyssey Healthcare Management Long-term Disability Plan Administrator ("Plan") provide
8 benefits for long-term disabilities to certain employees of Odyssey Healthcare Management,
9 LP ("Odyssey").

10 5. Odyssey is a corporation domiciled in the State of Texas with offices and doing
11 business in the State of Arizona, County of Maricopa.

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1 6. Odyssey caused events to occur in the State of Arizona out of which this cause
2 of action arises.

3 7. Plaintiff is informed and believes that the Plan benefits are insured by
4 UnumProvident.

5 8. Plaintiff was employed as a registered nurse by Odyssey until approximately
6 January 2005.

7 9. Due to "sickness," On approximately October 8, 2004, Plaintiff became
8 "disabled" and unable to perform the "material and substantial duties" of either her "regular
9 occupation" or "any gainful occupation" as those terms are defined and/or intended by the
10 terms of the Plan.

11 10. Plaintiff timely submitted to the Plan a long-term disability ("LTD") claim
12 according to the terms and conditions of the Plan.

13 11. The Plan refused to process Plaintiff's LTD claim.

14 12. In refusing to process Plaintiff's LTD claim the Plan failed to exercise
15 discretion, if any, granted to it by the Plan, with respect to payment of claims and/or
16 interpretation of Plan provisions.

17 13. As a matter of ERISA law and regulations, Plaintiff is deemed to have fully
18 exhausted all administrative remedies required under the Plan.

19 14. The Plan acted at all times under a conflict of interest.

20 15. The Plan's conflict of interest influenced its decision to terminate Plaintiff's
21 LTD Plan benefits.

22 16. The Plan's decision was arbitrary and capricious.

23 17. The Plan's decision violated the terms and conditions of Plan.

24 18. The Plan's decision constituted an abuse of discretion.

25 19. The Plan's decision was in breach of fiduciary duties owed to Plaintiff.

26 20. The Plan failed to provide Plaintiff with a full and fair review of her claim.

1 21. The Plan unreasonably refused to credit medical and vocational evidence
2 supporting Plaintiff's total disability and her inability to perform the material duties of any
3 occupation.

4 22. Plaintiff has suffered economic damage as a result of the acts of Defendants.

5 WHEREFORE, Plaintiff requests, as to all claims:

- 6 1. Plan benefits, pursuant to 29 U.S.C. § 1132(a)(1)(B);
7 2. Attorneys fees and costs pursuant to 29 U.S.C. § 1132(g)(1); and,

8 DATED: December 17, 2010

RANDOLPH G. BACHRACH
Attorney at Law

11 By s/Randolph G. Bachrach

12 Randolph G. Bachrach
13 7303 W. Boston Street
14 Chandler, Arizona 85226
15 Attorney for Plaintiff

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Attorneys for Plaintiff

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DEC 17 2010



NICHOLAS K. JAMES, CLERK
W. POWLEY
DEPUTY CLERK

Superior Court of the State of Arizona

FOR THE COUNTY OF MARICOPA

CANDACE S. WALTERS,

Plaintiff,

vs.

ODYSSEY HEALTHCARE
MANAGEMENT LONG-TERM
DISABILITY PLAN; ODYSSEY
HEALTHCARE MANAGEMENT LONG-
TERM DISABILITY PLAN
ADMINISTRATOR,

Defendants.

No.: CV2010-031047

PLAINTIFF'S
ARBITRATION
CERTIFICATE

1 The undersigned certifies that the largest award sought by the Plaintiff, including
2 punitive damages, but excluding interest, attorney's fees, and costs exceeds the limits set by
3 Local Rule for compulsory arbitration. This case is not subject to the Uniform Rules of
4 Procedure for Arbitration.

5 DATED: December 17, 2010

RANDOLPH G. BACHRACH
Attorney at Law

7 By s/Randolph G. Bachrach
8 Randolph G. Bachrach
9 7303 W. Boston St.
10 Chandler, Arizona 85226
11 Attorney for Plaintiff

12 [Copy to be served with Summons & Complaint.]

EXHIBIT B

Tracy A. Miller, SBN 015920
Caroline Larsen, SBN 022547
OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C., SBN 00504800
Esplanade Center III, Suite 800
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Attorneys for Defendants

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

CANDACE S. WALTERS,

Plaintiff,

v.

ODYSSEY HEALTHCARE
MANAGEMENT LONG-TERM
DISABILITY PLAN; ODYSSEY
HEALTHCARE MANAGEMENT
LONG-TERM DISABILITY PLAN
ADMINISTRATOR,

Defendants.

No. CV2010-031047

**NOTICE OF FILING NOTICE OF
REMOVAL**

To the Clerk of the above-entitled Court:

PLEASE TAKE NOTICE that Defendants Odyssey Healthcare Management Long-Term Disability Plan and Odyssey Healthcare Management Long-Term Disability Plan Administrator ("Defendants") have timely filed their Notice of Removal of this action with the United States Federal Court, District of Arizona. A copy of the Notice of Removal filed in the United States District Court is attached hereto as Exhibit "1."

1 DATED this 21st day of January 2011.

2
3 OGLETREE, DEAKINS, NASH, SMOAK &
4 STEWART, P.C.

5
6 By: s/ Caroline Larsen
7 Tracy A. Miller, SBN 015920
8 Caroline Larsen, SBN 022547
9 Esplanade Center III, Suite 800
10 2415 East Camelback Road
11 Phoenix, AZ 85016
12 Attorneys for Defendants
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PHOENIX, AZ 85016
TELEPHONE: 602.778.3700

CERTIFICATE OF SERVICE

I hereby certify that the on the 21st day of January, 2011, I electronically filed the attached document.

AND a copy of the foregoing document was served by first-class mail, postage prepaid, this same day on:

Randolph G. Bachrach
7303 West Boston Street
Chandler, Arizona 85226

Attorney for Plaintiff

By: s/ Eva Pintor

9659609.1 (OGLETREE)

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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